

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

Page 60

TN: 02-08

Approved: DEC 03 2002

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

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then dividing the resulting amount by the nursing facility's actual resident days.

C. The salary adjustment per diem in Section 11.070 continues until the performance-based contracting payment system anticipated to be effective no earlier than July 1, 2003 is implemented. This adjustment becomes part of the operating payment rate in effect on June 30, 2001.

D. For the rate year beginning July 1, 1999, the following nursing facilities are allowed a rate increase equal to 67 percent of the rate increase that would be allowed if Section 11.047, item A was not applied:

(1) A nursing facility in Carver county licensed for 33 beds and four boarding care beds;

(2) A nursing facility in Faribault county licensed for 159 beds on September 30, 1998; and

(3) A nursing facility in Houston county licensed for 68 beds on September 30, 1998.

These increases are included in each facility's total payment rates for the purpose of determining future rates.

E. For the rate year beginning July 1, 1999, the following nursing facilities will be allowed a rate increase equal to 67 percent of the rate increase that would be allowed if Section 11.047, items A and B were not applied:

(1) A nursing facility in Chisago county licensed for 135 beds on September 30, 1998; and

(2) A nursing facility in Murray county licensed for 62 beds on September 30, 1998.

These increases are included in each facility's total payment rates for the purpose of determining future rates.

F. For the rate year beginning July 1, 1999, a nursing facility in Hennepin county licensed for 134 beds on September 30, 1998, will:

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

Page 61

TN: 02-08 DEC 3 2002

Approved:

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

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(1) Have the prior year's allowable care-related per diem increased by \$3.93 and the prior year's other operating cost per diem increased by \$1.69 before adding the inflation in Section 11.047, item D, subitem (2); and

(2) Be allowed a rate increase equal to 67 percent of the rate increase that would be allowed if Section 11.047, items A and B were not applied.

These increases are included in the facility's total payment rate for the purpose of determining future rates.

**SECTION 11.050 Changes to nursing facility reimbursement beginning July 1, 2000.**

A. The base operating rate is the rate for the rate year beginning July 1, 1998.

B. For the rate year beginning July 1, 2000, the Department will make an adjustment to the total operating payment rate for a nursing facility paid by the prospective rate-setting methodology described in Sections 1.000 to 20.000 or by the contractual rate-setting methodology described in Section 21.000 that submits a plan, approved by the Department, in accordance with subitem (2). The operating payment rate increases are applied to each nursing facility's June 30, 2000, operating payment rate.

Total operating costs will be separated into compensation-related costs and all other costs. Compensation-related costs include salaries, payroll taxes, and fringe benefits for all employees except management fees, the administrator, and central office staff.

(1) For the rate year beginning July 1, 2000, the payment rate is increased by:

(a) 3.632 percent of compensation-related costs;

(b) an additional increase for each case mix payment rate that must be used to increase the per-hour pay rate of all employees except management fees, the administrator, and central office staff by an equal dollar amount and to pay associated costs for FICA, the Medicare tax, workers' compensation premiums, and federal and state unemployment insurance, to be calculated according to the following:

1. the Department calculates the arithmetic mean of the eleven June 30, 2000, operating rates for each nursing facility;

2. the Department constructs an array of nursing facilities from highest to lowest, according to the arithmetic mean calculated in clause 1. A numerical rank is assigned to each facility in the array. The facility with the highest mean is assigned a

STATE: MINNESOTA  
Effective: January 1, 2002  
TN: 02-08

ATTACHMENT 4.19-D (NF)  
Page 62

Approved: DEC 03 2002  
Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

---

numerical rank of one. The facility with the lowest mean is assigned a numerical rank equal to the total number of nursing facilities in the array. All other facilities are assigned a numerical rank in accordance with their position in the array;

3. the amount of the additional rate increase is \$1.00 plus an amount equal to \$3.13 multiplied by the ratio of the facility's numeric rank divided by the number of facilities in the array; and

(c) 2.585 percent of all other operating costs. A nursing facility's final 1999 Medicare cost report will be used to calculate the adjustment.

Money received by a nursing facility as a result of the increase provided by (b), above, must be used only for wage increases implemented on or after July 1, 2000, and must not be used for wage increases implemented before then.

(2) To receive the total operating payment rate adjustment, a nursing facility must apply to the Department. The application must contain a plan by which the nursing facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For a nursing facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan, but only if the agreement is finalized after May 16, 2000.

(a) The Department will review the plan to ensure that the payment rate adjustment per diem is used as provided in subitem (1).

(b) To be eligible, a nursing facility must submit its plan for the compensation distribution by December 31 each year. A nursing facility may amend its plan for the second rate year by submitting a revised plan by December 31, 2000. If a nursing facility's plan for compensation distribution is effective for its employees after July 1 of the year that the funds are available, the payment rate adjustment per diem shall be effective the same date as its plan.

(3) The payment rate adjustment for each nursing facility will be determined under clauses (a) or (b).

(a) For a nursing facility that reports salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the Department will determine the payment rate adjustment using the categories listed above multiplied by the rate increases in subitem (1), and then dividing the resulting amount by the nursing facility's actual resident days. In determining the amount of a payment rate adjustment for a nursing facility paid under

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

Page 63

TN: 02-08

Approved: DEC 9 8 2002

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

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Section 21.000, the Department must determine the proportions of the nursing facility's rates that are compensation-related costs and all other operating costs based on its most recent cost report; or

(b) For a nursing facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the payment rate adjustment will be computed using the nursing facility's total operating costs, separated into the categories listed above in proportion to the weighted average of all nursing facilities determined under subitem (3), clause (a), multiplied by the rate increases in subitem (1), and then dividing the resulting amount by the nursing facility's actual resident days.

C. The salary adjustment per diem in Section 11.070 continues until the performance-based contracting payment system anticipated to be effective no earlier than July 1, 2003 is implemented. This adjustment becomes part of the operating payment rate in effect on June 30, 2001.

D. For rate years beginning on or after July 1, 2000, a nursing facility in Goodhue county that was licensed for 104 beds on February 1, 2000, shall have its employee pension benefit costs reported on its Rule 50 cost report treated as PERA contributions for the purpose of computing its payment rates.

E. Following the determination under item B, a facility in Roseau county licensed for 49 beds, has its operating cost per diem increased by the following amounts:

- (1) case mix class A, \$1.97;
- (2) case mix class B, \$2.11;
- (3) case mix class C, \$2.26;
- (4) case mix class D, \$2.39;
- (5) case mix class E, \$2.54;
- (6) case mix class F, \$2.55;
- (7) case mix class G, \$2.66;
- (8) case mix class H, \$2.90;
- (9) case mix class I, \$2.97;

STATE: MINNESOTA  
Effective: January 1, 2002  
TN: 02-08

ATTACHMENT 4.19-D (NF)  
Page 64

Approved: *Bill G. 2008*  
Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

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(10) case mix class J, \$3.10; and

(11) case mix class K, \$3.36.

These increases are included in the facility's total payment rates for the purpose of determining future rates.

**SECTION 11.051 Changes to nursing facility reimbursement beginning July 1, 2001.**

A. For the rate year beginning July 1, 2001, the Department will provide an adjustment equal to 3.0 percent of the total operating payment rate. The operating payment rates in effect on June 30, 2001 include the adjustment in Section 11.070.

B. For rate years beginning on or after July 1, 2001 and for admissions occurring on or after July 1, 2001, the total payment rate for the first 90 paid days after admission is:

(1) for the first 30 paid days, 120 percent of the facility's medical assistance rate for each case mix class; and

(2) for the next 60 paid days after the first 30 paid days, 110 percent of the facility's medical assistance rate for each case mix class.

C. For rate years beginning on or after July 1, 2001 and for admissions occurring on or after July 1, 2001, beginning with the 91<sup>st</sup> paid day after admission, the payment rate is the rate otherwise determined under this Attachment.

D. For the rate year beginning July 1, 2001, the Department will adjust the operating payment rates for low-rate facilities. For each case mix level, if the amount computed under item A is less than the amount of the operating payment rate target level for July 1, 2001, below, the Department will make available the lesser of the amount of the operating payment rate target level for July 1, 2001, or an increase of ten percent over the rate in effect on June 30, 2001, as an adjustment to the operating payment rate. For the purposes of this item, facilities are considered metro if they are located in Anoka, Carver, Dakota, Hennepin, Olmsted, Ramsey, Scott, or Washington counties; or in the cities of Moorhead or Breckenridge; or in St. Louis county, north of Toivola and south of Cook; or in Itasca county, east of a north-south line two miles west of Grand Rapids.

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

Page 65

TN: 02-08

Approved: DEC 6 3 2002

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

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Operating Payment Rate Target Level for July 1, 2001

Case Mix Classification	Metro	Nonmetro
A	\$76.00	\$68.13
B	\$83.40	\$74.46
C	\$91.67	\$81.63
D	\$99.51	\$88.04
E	\$107.46	\$94.87
F	\$107.96	\$95.29
G	\$114.67	\$100.98
H	\$126.99	\$111.31
I	\$131.34	\$115.06
J	\$138.34	\$120.85
K	\$152.26	\$133.10

E. For the rate year beginning July 1, 2001, two-thirds of the money resulting from the rate adjustment under item A, and one-half of the money resulting from the rate adjustment under items B through D, must be used to increase the wages and benefits and pay associated costs of all employees except management fees, the administrator, and central office staff.

(1) Money received by a facility resulting from the rate adjustments under items A through D must be used only for wage and benefit increases implemented on or after July 1, 2001.

(2) A facility may apply for the portions of the rate adjustments under this item. The application must be made to the Department and contain a plan by which the facility will distribute the funds to its employees. For a facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan, if the agreement is finalized after June 30, 2001.

(a) The Department will review the plan to ensure that the rate adjustments are used as required in this item.

(b) To be eligible, a facility must submit its plan for the wage and benefit distribution by December 31, 2001. If a facility's plan for wage and benefit distribution is effective for its employees after July 1, 2001, the portion of the rate adjustments are effective the same date as its plan.

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(3) A hospital-attached facility may include costs in its distribution plan for wages and benefits and associated costs of employees in that organization's shared services departments, provided that the facility and the hospital share common ownership and adjustments for hospital services using the diagnostic-related grouping payment rates per admission under Medicare are less than three percent during the 12 months before July 1, 2001. If a hospital-attached facility meets these qualifications, the difference between the rate adjustments approved for nursing facility services and the rate increase approved for hospital services may be permitted as a distribution in the hospital-attached facility's plan regardless of whether the use of the funds is shown as being attributable to employee hours worked in the facility or employee hours worked in the hospital.

F. Notwithstanding Sections 1.020 and 17.020, upon the request of a facility, the Department may authorize the facility to raise per diem rates for private-pay residents on July 1 by the amount anticipated to be required upon implementation of the rate adjustments allowable under items A through D. Until the rate is finalized, the Department will require any amounts collected, which must be used as provided in this item, to be placed in an escrow account established for this purpose with a financial institution that provides deposit insurance. The Department shall conduct audits as necessary to ensure that:

(1) the amounts collected are retained in escrow until rates are increased to reflect the wage-related adjustment; and

(2) any amounts collected from private-pay residents in excess of the final rate are repaid to the private-pay residents with interest.

G. For rate years beginning on or after July 1, 2001, in calculating a facility's operating cost per diem for the purposes of constructing an array, determining a median, or otherwise performing a statistical measure of facility payment rates to be used to determine future rate increases, the Department will exclude adjustments for raw food costs under Section 8.020, item B, that are related to providing special diets based on religious beliefs.

#### **SECTION 11.052 Changes to nursing facility reimbursement beginning July 1, 2002.**

A. For the rate year beginning July 1, 2002, the Department will provide an adjustment equal to 3.0 percent of the total operating payment rate. The operating payment rates in effect on June 30, 2001 include the adjustment in Section 11.070.

B. For the rate year beginning July 1, 2002, the Department will adjust the operating payment rates for low-rate facilities. For each case mix level, if the amount computed under item A is less than the amount of the operating payment rate target level for July 1, 2002, below, the Department will make available the lesser of the operating payment

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

Page 67

TN: 02-08

Approved: JEC 3 3 2002

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

---

rate target level for July 1, 2002, or an increase of ten percent over the rate in effect on June 30, 2002, as an adjustment to the operating payment rate. For the purposes of this item, facilities are considered metro if they meet the requirements in Section 11.051, item D.

Operating Payment Rate Target Level for July 1, 2002

Case Mix Classification	Metro	Nonmetro
<u>A</u>	\$78.28	\$70.51
<u>B</u>	\$85.91	\$77.16
C	\$94.42	\$84.62
D	\$102.50	\$91.42
E	\$110.68	\$98.40
F	\$111.20	\$98.84
G	\$118.11	\$104.77
H	\$130.80	\$115.64
I	\$135.38	\$119.50
J	\$142.49	\$125.38
K	\$156.85	\$137.77

C. For the rate year beginning July 1, 2002, two-thirds of the money resulting from the rate adjustment under item A, and one-half of the money resulting from the rate adjustment under Section 11.051, items B and C and item B of this Section, must be used to increase the wages and benefits and pay associated costs of all employees except management fees, the administrator, and central office staff.

(1) Money received by a facility resulting from the rate adjustments under item A, Section 11.051, items B and C and item B of this Section must be used only for wage and benefit increases implemented on or after July 1, 2002.

(2) A facility may apply for the portions of the rate adjustments under this item. The application must be made to the Department and contain a plan by which the facility will distribute the funds to its employees. For a facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan, if the agreement is finalized after the date of enactment of all increases for the rate year.

(a) The Department will review the plan to ensure that the rate adjustments are used as required in this item.



STATE: MINNESOTA  
Effective: January 1, 2002  
TN: 02-08

ATTACHMENT 4.19-D (NF)  
Page 68

Approved: DEC 9 5 2002

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

---

(b) To be eligible, a facility must submit its plan for the wage and benefit distribution by December 31, 2002. If a facility's plan for wage and benefit distribution is effective for its employees after July 1, 2002, the portion of the rate adjustments are effective the same date as its plan.

(3) A hospital-attached facility may include costs in its distribution plan for wages and benefits and associated costs of employees in that organization's shared services departments, provided that the facility and the hospital share common ownership and adjustments for hospital services using the diagnostic-related grouping payment rates per admission under Medicare are less than three percent during the 12 months before July 1, 2002. If a hospital-attached facility meets these qualifications, the difference between the rate adjustments approved for nursing facility services and the rate increase approved for hospital services may be permitted as a distribution in the hospital-attached facility's plan regardless of whether the use of the funds is shown as being attributable to employee hours worked in the facility or employee hours worked in the hospital.

D. Notwithstanding Sections 1.020 and 17.020, upon the request of a facility, the Department may authorize the facility to raise per diem rates for private-pay residents on July 1 by the amount anticipated to be required upon implementation of the rate adjustments allowable under item A, Section 11.051, items B and C, and item B of this Section. Until the rate is finalized, the Department will require any amounts collected, which must be used as provided in this item, to be placed in an escrow account established for this purpose with a financial institution that provides deposit insurance. The Department shall conduct audits as necessary to ensure that:

(1) the amounts collected are retained in escrow until rates are increased to reflect the wage-related adjustment; and

(2) any amounts collected from private-pay residents in excess of the final rate are repaid to the private-pay residents with interest.

**SECTION 11.060 Total operating cost payment rate.** Through June 30, 1999, the nursing facility's total operating cost payment rate must be the sum of the adjusted prospective case mix and other care-related payment rate determined in Section 11.020 and the adjusted other operating cost payment rate determined in Section 11.040.

**SECTION 11.070 Salary adjustment per diem.** Effective July 1, 1998, the Department shall make available the appropriate salary adjustment per diem calculated in item A through D to the total operating cost payment rate of each nursing facility subject to payment under this attachment, including Section 21.000. The salary adjustment per diem for each nursing facility must be determined as follows:

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

Page 69

TN: 02-08

Approved: DEC 6 8 2002

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

---

A. For each nursing facility that reports salaries for registered nurses, licensed practical nurses, and aides, orderlies and attendants separately, the Department shall determine the salary adjustment per diem by multiplying the total salaries, payroll taxes, and fringe benefits allowed in each operating cost category, except management fees and administrator and central office salaries and the related payroll taxes and fringe benefits, by 3.0 percent and then dividing the resulting amount by the nursing facility's actual resident days.

B. For each nursing facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the salary adjustment per diem is the weighted average salary adjustment per diem increase determined under item A.

C. A nursing facility may apply for the salary adjustment per diem calculated under items A and B. The application must be made to the Department and contain a plan by which the facility will distribute the salary adjustment to employees of the facility. In order to apply for a salary adjustment, a facility reimbursed pursuant to Section 21.000 must report the information required by items A or B in the application, in the manner specified by the Department. For facilities in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative, after July 1, 1998, may constitute the plan for the salary distribution. The Department will review the plan to ensure that the salary adjustment per diem is used solely to increase the compensation of facility employees. To be eligible, a facility must submit its plan for the salary distribution by December 31, 1998. If a facility's plan for salary distribution is effective for its employees after July 1, 1998, the salary adjustment cost per diem is effective the same date as its plan.

D. Additional costs incurred by facilities as a result of this salary adjustment are not allowable costs for purposes of the September 30, 1998 cost report.

## **SECTION 12.000 DETERMINATION OF INTERIM AND SETTLE-UP OPERATING COST PAYMENT RATES**

**SECTION 12.010 Conditions.** To receive an interim payment rate, a nursing facility must comply with the requirements and is subject to the conditions in Section 15.140, items A to C. The Department shall determine interim and settle-up operating cost payment rates for a newly constructed nursing facility, or one with an increase in licensed capacity of 50 percent or more according to Sections 12.020 and 12.030.

**SECTION 12.020 Interim operating cost payment rate.** For the rate year or portion of an interim period beginning on or after July 1, 1987, the interim total operating cost payment rate must be determined according to Sections 1.000 to 14.000, except that:

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

Page 70

TN: 02-08

Approved: DEC 9 3 2002

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

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A. The nursing facility must project its anticipated resident days for each resident class. The anticipated resident days for each resident class must be multiplied by the weight for that resident class as listed in Section 13.000 to determine the anticipated standardized resident days for the reporting period.

B. The Department shall use anticipated standardized resident days in determining the allowable historical case mix operating cost standardized per diem.

C. The Department shall use the anticipated resident days in determining both the allowable historical other care-related operating cost per diem and the allowable historical other operating cost per diem.

D. The annual adjustment factors determined in Section 10.010, must not be applied to the nursing facility's allowable historical per diems as provided in Sections 11.020 and 11.040.

E. The efficiency incentive in Section 11.040, items A or B, must not apply.

**SECTION 12.030 Settle-up operating cost payment rate.** The settle-up total operating cost payment rate must be determined according to items A to C.

A. The settle-up operating cost payment rate for interim periods before July 1, 1987, is subject to the rule parts that were in effect during the interim period.

B. To determine the settle-up operating cost payment rate for interim periods or the portion of an interim period occurring after July 1, 1987, subitems (1) to (7) must be applied.

(1) The standardized resident days as determined in Section 9.020 must be used for the interim period.

(2) The Department shall use the standardized resident days in subitem (1) in determining the allowable historical case mix operating cost standardized per diem.

(3) The Department shall use the actual resident days in determining both the allowable historical other care-related operating cost per diem and the allowable historical other operating cost per diem.

(4) The annual adjustment factors determined in Section 10.010 must not be applied to the nursing facility's allowable historical per diems.

(5) The efficiency incentive in Section 11.040, items A or B, must not apply.

STATE: MINNESOTA

ATTACHMENT 4.19-D (NF)

Effective: January 1, 2002

Page 71

TN: 02-08

Approved: DEC 9 3 2002

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

---

C. For the nine-month period following the settle-up reporting period, the total operating cost payment rate must be determined according to item B except that the efficiency incentive as computed in Section 11.040, item A or B, applies.

D. The total operating cost payment rate for the rate year beginning July 1 following the nine-month period in item C must be determined under Sections 6.000 to 14.090.

E. A newly-constructed nursing facility or one with an increase in licensed capacity of 50 percent or more must continue to receive the interim total operating cost payment rate until the settle-up total operating cost payment rate is determined under this subpart.

#### **SECTION 13.000 RESIDENT CLASSES AND CLASS WEIGHTS.**

SECTION 13.010 **Resident classes.** Each resident or applicant must be assessed according to items A to E based on the information on the assessment form completed in accordance with Sections 14.000 to 14.060 (Resident Assessment Section).

A. A resident or applicant must be assessed as dependent in an activity of daily living according to the following table:

<u>ADL</u>	<u>Dependent if Score</u> <u>At or Above</u>
Dressing	2
Grooming	2
Bathing	4
Eating	2
Bed mobility	2
Transferring	2
Walking	2
Toileting	1

B. A resident or applicant assessed as dependent in fewer than four of the ADLs in item A must be defined as Low ADL. A resident or applicant assessed as dependent in four through six of the ADLs in item A must be defined as Medium ADL. Each resident or applicant assessed as dependent in seven or eight of the ADLs in item A must be defined as High ADL.

C. A resident or applicant must be defined as special nursing if the resident or applicant meets the criteria in subitems (1) or (2):

STATE: MINNESOTA

Effective: January 1, 2002

TN: 02-08

Approved:

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

---

ATTACHMENT 4.19-D (NF)

Page 72

(1) the resident or applicant is assessed to require tube feeding; or

(2) the resident or applicant is assessed to require clinical monitoring every day on each shift and the resident is assessed to require one or more of the following special treatments:

- (a) oxygen and respiratory therapy;
- (b) ostomy/catheter care;
- (c) wound or decubitus care;
- (d) skin care;
- (e) intravenous therapy;
- (f) drainage tubes;
- (g) blood transfusions;
- (h) hyperalimentation;
- (i) symptom control for the terminally ill; or
- (j) isolation precautions.

D. A resident or applicant must be defined as having a neuromuscular condition if the resident or applicant is assessed to have one or more of the diagnoses coded to the categories in subitems (1) to (8) according to the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM).

- (1) diseases of nervous system excluding sense organs (320-359 excluding 331.0);
- (2) cerebrovascular disease (430-438 excluding 437);
- (3) fracture of skull (800-804), excluding cases without intracranial injury;
- (4) intracranial injury, excluding those with skull fracture (850-854);
- (5) fracture of vertebral column with spinal cord injury (806);

(6) spinal cord injury without evidence of spinal bone injury (952);

(7) injury to nerve roots and spinal plexus (953); or

(8) neoplasms of the brain and spine (170.2, 170.6, 191, 192, 198.3, 198.4, 213.2, 213.6, 225, 237.5, 237.6, and 239.6).

E. A resident or applicant must be defined as having a behavioral condition if the resident's or applicant's assessment score is two or more for behavior on the assessment form.

**SECTION 13.020 Resident classes.** The Department shall establish resident classes according to items A to K.

A. A resident must be assigned to class A if the resident is assessed as:

- (1) Low ADL;
- (2) not defined behavioral condition; and
- (3) not defined special nursing.

B. A resident must be assigned to class B if the resident is assessed as:

- (1) Low ADL;
- (2) defined behavioral condition; and
- (3) not defined special nursing.

C. A resident must be assigned to class C if the resident is assessed as:

- (1) Low ADL; and
- (2) defined special nursing.

D. A resident must be assigned to class D if the resident is assessed as:

- (1) Medium ADL;
- (2) not defined behavioral condition; and

STATE: MINNESOTA

Effective: January 1, 2002

TN: 02-08

Approved: 1/20/02

Supersedes: 01-09 (00-22/99-10/99-04/98-22/97-20/97-11)

---

ATTACHMENT 4.19-D (NF)

Page 74

(3) not defined special nursing.

E. A resident must be assigned to class E if the resident is assessed as:

- (1) Medium ADL;
- (2) defined behavioral condition; and
- (3) not defined special nursing.

F. A resident must be assigned to class F if the resident is assessed as:

- (1) Medium ADL; and
- (2) defined special nursing.

G. A resident must be assigned to class G if the resident is assessed as:

- (1) High ADL;
- (2) scoring less than three on the eating ADL;
- (3) not defined special nursing; and
- (4) not defined behavioral condition.

H. A resident must be assigned to class H if the resident is assessed as:

- (1) High ADL;
- (2) scoring less than three on the eating ADL;
- (3) defined behavioral condition; and
- (4) not defined special nursing.

I. A resident must be assigned to class I if the resident is assessed as:

- (1) High ADL;
- (2) scoring three or four on the eating ADL;